

§ 180.315

materially in elucidating factual matters at issue between the parties and will not expand the issues.

[61 FR 52218, Oct. 4, 1996, as amended at 64 FR 3801, Jan. 25, 1999]

§ 180.315 Standards of conduct.

(a) All persons appearing in proceedings under this part shall act with integrity and in an ethical manner.

(b) The ALJ may exclude parties or their representatives for refusal to comply with directions, continued use of dilatory tactics, refusal to adhere to reasonable standards of orderly and ethical conduct, failure to act in good faith, or violations of the prohibitions against ex parte communications. An attorney who is suspended or barred from participation may appeal to another ALJ designated by the Director of the Office of Hearings and Appeals. The proceeding will not be delayed or suspended pending disposition on the appeal, except that the ALJ shall suspend the proceeding for a reasonable time to enable the party to obtain another attorney.

[61 FR 52218, Oct. 4, 1996, as amended at 73 FR 13723, Mar. 13, 2008]

Subpart D—Proceedings Prior to Hearing

§ 180.400 Service and filing.

(a) *Service*—(1) *Service by the Office of ALJs*. The Office of ALJs shall serve all notices, orders, decisions and other such documents by mail to each party and amicus curiae at the last known address.

(2) *Service by others*. A copy of each filed document shall be served on each party and each amicus curiae. Service shall be made upon counsel if a party is represented by counsel. Service on counsel shall constitute service on the party. Service may be made to the last known address by first-class mail or other more expeditious means, such as:

(i) Hand delivery to the person to be served or a person of suitable age and discretion at the place of business, residence, or usual place of abode of the person to be served;

(ii) Overnight delivery; or

(iii) Facsimile transmission or electronic means. The ALJ may place ap-

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propriate limits on service by facsimile transmission or electronic means.

(3) *Certificate of service*. Every document served shall be accompanied by a certificate of service containing a statement as to the date of service, the method of service, the parties served and the address at which they were served, which is signed and dated by the person making service.

(b) *Filing*—(1) *Method*. All documents shall be filed with the Docket Clerk. Filing may be by first class mail, delivery, facsimile transmission, or electronic means; however, the ALJ may place appropriate limits on filing by facsimile transmission or electronic means.

(2) *Form*. Every pleading, motion, brief, or other document shall contain a caption setting forth the title of the proceeding, the docket number assigned by the Office of ALJs, and the designation of the type of document (e.g., charge, motion).

(3) *Signature*. Every document filed by a party shall be signed by the party or the party's attorney and must include the signer's address and telephone number. The signature constitutes a certification that: the signer has read the document; to the best of the signer's knowledge, information and belief, the statements made therein are true; and the document is not interposed for delay.

[61 FR 52218, Oct. 4, 1996, as amended at 74 FR 4636, Jan. 26, 2009]

§ 180.405 Time computations.

(a) In computing time under this part, the time period begins the day following the act, event, or default and includes the last day of the period, unless the last day is a Saturday, Sunday, or legal holiday observed by the Federal Government, in which case the time period includes the next business day.

(b) *Modification of time periods*. Except for time periods required by statute, the ALJ may enlarge or reduce any time period required under this part where necessary to avoid prejudicing the public interest or the rights of the parties. Requests for extension of time should set forth the reasons for the request.

(c) *Entry of orders.* In computing any time period involving the date of the ALJ's issuance of an order or decision, the date of issuance is the date of service by the Docket Clerk.

(d) *Computation of time for delivery by mail.* When documents are filed by mail, three days shall be added to the prescribed time period for filing any responsive pleading. Documents are not filed until received by the Docket Clerk.

(e) *Untimely filing.* The ALJ may refuse to consider any motion or other document that is not filed in a timely fashion.

[61 FR 52218, Oct. 4, 1996, as amended at 74 FR 4636, Jan. 26, 2009]

§ 180.410 Charges under the Fair Housing Act.

(a) *Filing and service.* Within 3 days after the issuance of a charge, the General Counsel shall file the charge with the Docket Clerk and serve copies (with the additional information required under paragraph (b) of this section) on all respondents and aggrieved persons.

(b) *Contents.* The charge shall consist of a short and plain written statement of the facts upon which reasonable cause has been found to believe that a discriminatory housing practice has occurred or is about to occur. A notification shall be served with the charge containing the following information:

(1) Any complainant, respondent, or aggrieved person may elect to have the claims asserted in the charge decided in a civil action under 42 U.S.C. 3612(o), in lieu of an administrative proceeding under this part.

(2) Such election must be made not later than 20 days after receipt of service of the charge by serving written notice of such on the Docket Clerk, each respondent, each aggrieved person on whose behalf the charge was issued, the Assistant Secretary, and the General Counsel.

(3) If no person timely elects to have the claims asserted in the charge decided in a civil action under 42 U.S.C. 3612(o), an administrative proceeding will be conducted under this part.

(4) If an administrative hearing is conducted:

(i) The hearing will be held at a date and place specified.

(ii) The respondent will have an opportunity to file an answer to the charge within 30 days after service of the charge.

(iii) The aggrieved person may participate as a party to the administrative proceeding by filing a request for intervention within 50 days after service of the charge.

(iv) All discovery must be concluded 15 days before the date set for hearing.

(v) The rules in this part will govern the proceeding.

(5) If, at any time following service of the charge on the respondent, the respondent intends to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of the charge, the respondent must provide a copy of the charge to such person before the respondent and the person enter into the contract, sale, encumbrance or lease.

(c) *Election of judicial determination.* If the complainant, the respondent, or the aggrieved person on whose behalf a complaint was filed makes a timely election to have the claims asserted in the charge decided in a civil action under 42 U.S.C. 3612(o), the administrative proceeding shall be dismissed.

(d) *Effect of a civil action on administrative proceeding.* An ALJ may not continue an administrative proceeding under the Fair Housing Act after the beginning of the trial of a civil action commenced by the aggrieved person under an act of Congress or a State law seeking relief with respect to that discriminatory housing practice. If such a trial is commenced, the ALJ shall dismiss the administrative proceeding. The commencement and maintenance of a civil action for appropriate temporary or preliminary relief under 42 U.S.C. 3610(e) or 42 U.S.C. 3613 does not affect administrative proceedings under this part.

[61 FR 52218, Oct. 4, 1996, as amended by 73 FR 13723, Mar. 13, 2008; 74 FR 4636, Jan. 26, 2009]